

Federal Defenders
OF NEW YORK, INC.

Southern District
52 Duane Street-10th Floor, New York, NY 10007
Tel: (212) 417-8700 Fax: (212) 571-0392

David E. Patton
Executive Director

Southern District of New York
Jennifer L. Brown
Attorney-in-Charge

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By ECF

Honorable Vernon S. Broderick
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

**Re: *United States v. Sayfullo Saipov*
S1 17 Cr. 722 (VSB)**

Dear Judge Broderick:

I write to respond briefly to the government's March 6 letter objecting to the phrasing of the jury's two sentencing options on the verdict form that the defense proposed by letter yesterday. *See* DE #762 and 763. We proposed such phrasing in the alternative to our primary request that the Court include a not-unanimous verdict as a third option on the verdict form, which the government opposed and the Court denied at the charge conference.

According to the government, the defense's proposed phrasing would create ambiguity: if the jury did not vote for death, the verdict form would not make clear if the jurors were unanimous for life or not-unanimous. But any such concern could be resolved by the defense's primary proposal, for three verdict options (and for that reason, the Court should reconsider it). Moreover, according to the government's letter, such ambiguity could create a problem in the event of a remote hypothetical: The jury fails to return a death sentence, Mr. Saipov is sentenced to life, and, on appeal, all of his capital convictions were overturned such that his case were remanded for a capital retrial, and the government sought the death penalty again against Mr. Saipov's claim of double jeopardy. But under the circumstances of this case, the chances of such a confluence of future, highly speculative events is almost infinitesimal.

Accordingly, consistent with the law and the verdict forms from prior SDNY capital cases (*see* DE #760), the Court should specifically list a third "non-unanimous life" option on the verdict form, or, in the alternative, adopt one of the defense's three proposals outlined at DE #762.

Respectfully Submitted,

/s/

David Patton
Andrew Dalack
Sylvie Levine
David Stern

Attorneys for Sayfullo Saipov

Cc: Government Counsel